

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 1107 OF 1997

Allahabad, this the 6th day of May, 1999

CORAM : Hon 'ble Mr. S.K.Agrawal, Member(J)

Mohd. Salim,
Ex- Postman,
R/o. 2/14 Type-II,
P&T Colony,
Kanpur.

..... Applicant.

C/A. Shri Upendra Nath, Advocate.

Versus

1. Union of India, through
The Post Master General,
Kanpur Region, Kanpur.

2. The Chief Post Master,
Head Post Office,
Kanpur.

..... Respondents

C/R. Shri N.B.Singh, Advocate.

ORDER

(By Hon 'ble Mr.S.K.Agrawal, Member(J))

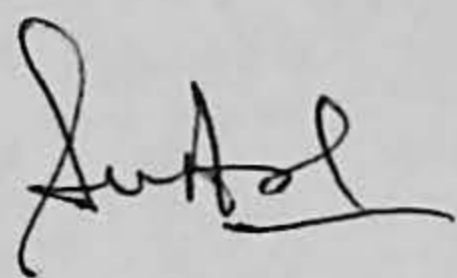
In this original application prayer of the applicant is to direct the respondents to refund the recoveries of Rs.900/- made from the applicant's pension for house rent alongwith interest.

2. In brief the case of the applicant is that applicant was retired on 29-5-95 on medical grounds and respondents were kind enough to engage his son Mohd. Shameem as group 'D' employee on compassionate grounds

contd..

who joined his duty on 3-8-86. It is stated by the applicant that he was also having the Govt. accommodation. It is further stated that respondents deducted Rs.900/- for the period from February '97 to August '97 as Rent from the pension payable to the applicant which is liable to be refunded by the respondents alongwith interest. As liability incurred by the applicant after the date of retirement does not fall within the definition of Govt. rules and recovery from the pension of the applicant is highly arbitrary and without jurisdiction, therefore, the applicant is entitle to refund of Rs.900/- with interest.

3. Counter was filed. In the counter it was stated that applicant was liable to pay the amount due to him on account of his illegal retention of the quarter which he should have vacated after his retirement, therefore the amount was deducted from the pension of the applicant. The applicant also filed an application dated 8-8-95 for extension of four months which was permitted to the applicant to retain the quarter upto 30-9-95, but the applicant neither vacated that quarter nor any permission was given to the applicant beyond 30-9-95. Therefore, deduction from his pension for the period as mentioned above is not in any way arbitrary, illegal and without jurisdiction and this original application is devoid of any merit and liable to be dismissed.



4. Rejoinder was also filed reiterating the facts stated in the original application and a Supplementary

Counter and Supplementary Rejoinder has also been filed which are on record.

5. Heard the learned lawyer for the applicant and learned lawyer for respondents and also perused the whole record.

6. The main question for determination in this original application is that whether after the retirement of an employee the House Rent for the retention of Govt. accommodation by the concerned employee can be recovered from his pension?

7. Learned lawyer for applicant vehemently argued that from the pension no recovery can be made pertaining to House Rent. In support of his contention he has referred Dr. Shitla Prasad Nagendra Vs. Gorakhpur University, Gorakhpur and others 1998 (3) A.W.C. 2367. In the aforesaid matter Hon'ble High Court of Allahabad has held that pension cannot be withheld or adjusted or appropriated for satisfaction of any dues outstanding against retired employee. Therefore, withholding of pension or recovery of house rent from the pension of the petitioner is illegal. In Bharatji Singh Vs. UOI and another Allahabad Central Administrative Tribunal has held that Damage Rent cannot be recovered from relief to pension.




8. Admittedly applicant was retired on 29-5-95 and the recovery from pension were made by Chief Post Master, Head Post Office, Kanpur from February '97 to August '97, therefore the recovery from the pension of

the applicant was made after the retirement of the applicant. According to the legal position as cited above I am of the opinion that respondents were not entitle to recover the said amount from the pension payable to the applicant. However, there are other ways open to the respondents for recovering the said amount for illegal retention of the quarter under Fundamental Rules. Therefore, applicant is entitle to the relief sought for.

9. I, therefore, allow this original application and direct the respondents to refund Rs.900/- recovered as rent from February '97 to August '97 with interest @ 12% per annum from the date of recovery till the date of refund.

No order as to costs.


MEMBER (J)

/satya/